

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1835 be amended to read as follows:

- 1 Page 6, line 39, after "(140)" insert "**but not more than one**
- 2 **hundred sixty (160)**".
- 3 Page 6, line 42, delete "Ninety" and insert "**At least eighty (80) but**
- 4 **not more than ninety**".
- 5 Page 7, line 1, delete "Fifty (50)" and insert "**At least sixty (60) but**
- 6 **not more than seventy (70)**".
- 7 Page 7, between lines 16 and 17, begin a new paragraph and insert:
- 8 "**(d) A permit holder may not conduct more than twelve (12)**
- 9 **racers on a particular racing day.**".
- 10 Page 8, between lines 26 and 27, begin a new paragraph and insert:
- 11 "**(c) A permit holder licensed to conduct gambling games under**
- 12 **IC 4-35 is limited to the number of satellite facility licenses issued**
- 13 **to the permit holder before January 1, 2007.**".
- 14 Page 19, line 9, delete "ending before July 1, 2009,".
- 15 Page 19, line 12, delete "slot machine taxes," and insert "**money,**".
- 16 Page 19, line 12, delete "to the" and insert "**by licensees under**
- 17 **IC 4-35-7-12 to horsemen's associations and for horse racing**
- 18 **purses and breed development in the state fiscal year.**".
- 19 Page 19, delete lines 13 through 14.
- 20 Page 19, line 15, delete "a" and insert "**each**".
- 21 Page 19, line 15, delete "ending before July 1, 2009,".
- 22 Page 19, line 20, delete "slot machine taxes" and insert "**money**
- 23 **distributed under IC 4-35-7-12 that is**".
- 24 Page 19, delete lines 25 through 33.
- 25 Page 24, line 18, delete "a" and insert "**each**".
- 26 Page 24, line 18, delete "ending before July 1, 2009,".
- 27 Page 24, line 21, delete "For a state fiscal year".
- 28 Page 24, delete lines 22 through 24.
- 29 Page 25, line 35, delete "permit holder holding a gambling" and
- 30 insert "**person holding a license issued under this article.**".
- 31 Page 25, delete line 36.

Page 26, line 14, delete "operations" and insert **"games at racetracks"**.

Page 26, between lines 28 and 29, begin a new paragraph and insert:
"Sec. 4. This article will maintain the public's confidence and trust through:

(1) comprehensive law enforcement supervision; and

(2) the strict regulation of facilities, persons, associations, and gambling games at racetracks under this article."

Page 27, line 2, delete "license holders" and insert **"licensees"**.

Page 27, line 13, delete "the form" and insert **"forms"**.

Page 27, line 18, after "article." insert **"The employees hired by the commission under this article may be the same as the commission's employees hired under IC 4-32.2 or IC 4-33."**

Page 27, between lines 20 and 21, begin a new paragraph and insert:
"(c) The commission may by resolution assign to the executive director any duty imposed upon the commission by this article.

(d) The executive director shall perform the duties assigned to the executive director by the commission. The executive director may exercise any power conferred upon the commission by this article that is consistent with the duties assigned to the executive director under subsection (c)."

Page 29, line 31, after "Sec. 7." insert **"(a)"**.

Page 29, between lines 34 and 35, begin a new paragraph and insert:
"(b) Where applicable, 68 IAC applies to racetracks conducting gambling games under this article."

Page 30, line 8, delete "operations;" and insert **"games at racetracks;"**.

Page 30, line 9, after "gambling" insert **"games at racetracks."**

Page 30, delete line 10.

Page 30, line 31, delete "slot machine gambling operations." and insert **"gambling games at racetracks."**

Page 30, line 37, delete "slot machine gambling operations." and insert **"gambling games at racetracks."**

Page 31, line 4, delete "slot machine gambling operations" and insert **"gambling games at racetracks"**.

Page 31, line 23, after "Sec. 2.5." insert **"(a)"**.

Page 31, after line 42, begin a new paragraph and insert:

"(b) In determining whether to grant a license under this chapter to an applicant, the commission shall consider the following:

(1) The character, reputation, experience, and financial integrity of the following:

(A) The applicant.

(B) A person that:

(i) directly or indirectly controls the applicant; or

(ii) is directly or indirectly controlled by the applicant or by a person that directly or indirectly controls the

- 1 applicant.
- 2 (2) The facilities or proposed facilities for the conduct of
- 3 gambling games.
- 4 (3) The prospective total revenue to be collected by the state
- 5 from the conduct of gambling games.
- 6 (4) The good faith affirmative action plan of each applicant to
- 7 recruit, train, and upgrade minorities in all employment
- 8 classifications.
- 9 (5) The financial ability of the applicant to purchase and
- 10 maintain adequate liability and casualty insurance.
- 11 (6) If the applicant has adequate capitalization to provide and
- 12 maintain facilities for gambling games for the duration of the
- 13 license.
- 14 (7) The extent to which the applicant exceeds or meets other
- 15 standards adopted by the commission.
- 16 Sec. 2.6. (a) A licensee under this chapter must post a bond with
- 17 the commission at least sixty (60) days before the commencement
- 18 of gambling games at the licensee's racetrack.
- 19 (b) The bond shall be furnished in:
- 20 (1) cash or negotiable securities;
- 21 (2) a surety bond:
- 22 (A) with a surety company approved by the commission;
- 23 and
- 24 (B) guaranteed by a satisfactory guarantor; or
- 25 (3) an irrevocable letter of credit issued by a banking
- 26 institution of Indiana acceptable to the commission.
- 27 (c) If a bond is furnished in cash or negotiable securities, the
- 28 principal shall be placed without restriction at the disposal of the
- 29 commission, but income inures to the benefit of the licensee.
- 30 (d) The bond:
- 31 (1) is subject to the approval of the commission;
- 32 (2) must be in an amount that the commission determines will
- 33 adequately reflect the amount that a local community will
- 34 expend for infrastructure and other facilities associated with
- 35 gambling games at the racetrack; and
- 36 (3) must be payable to the commission as obligee for use in
- 37 payment of the licensee's financial obligations to the local
- 38 community, the state, and other aggrieved parties, as
- 39 determined by the rules of the commission.
- 40 (e) If after a hearing (after at least five (5) days written notice)
- 41 the commission determines that the amount of a licensee's bond is
- 42 insufficient, the licensee shall upon written demand of the
- 43 commission file a new bond.
- 44 (f) The commission may require a licensee to file a new bond
- 45 with a satisfactory surety in the same form and amount if:
- 46 (1) liability on the old bond is discharged or reduced by
- 47 judgment rendered, payment made, or otherwise; or
- 48 (2) in the opinion of the commission any surety on the old

bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall cancel the licensee's license. If the new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) The proceeds of a bond that is in default under this subsection are paid to the commission for the benefit of the local unit in which the racetrack is located.

(i) The total and aggregate liability of the surety on a bond is limited to the amount specified in the bond, and the continuous nature of the bond may in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(j) The commission may adopt rules authorizing the release of a bond under this section.

Sec. 2.7. The commission may revoke a license under this chapter if:

- (1) the licensee begins regular gambling game operations more than twelve (12) months after receiving the commission's approval of the application for the license; and
- (2) the commission determines that the revocation of the license is in the best interests of Indiana.

Sec. 2.8. A license to conduct gambling games:

- (1) is a revocable privilege granted by the state; and
- (2) is not a property right."

Page 34, line 42, delete "operations" and insert "games at racetracks".

Page 36, between lines 16 and 17, begin a new paragraph and insert:
"Chapter 6.5. Licensing of Occupations

Sec. 1. The commission shall determine the occupations related to gambling games at racetracks that require a license under this chapter.

Sec. 2. (a) The commission may issue an occupational license to an individual if:

- (1) the individual has applied for the occupational license;
- (2) a nonrefundable application fee set by the commission has been paid on behalf of the applicant in accordance with subsection (b);
- (3) the commission has determined that the applicant is eligible for an occupational license; and
- (4) an annual license fee in an amount established by the commission has been paid on behalf of the applicant in accordance with subsection (b).

(b) A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article shall pay the application fee of an individual applying for an occupational license to work:

(1) in an occupation related to gambling games at the permit holder's racetrack; or

(2) for the holder of a supplier's license.

A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article shall pay the annual occupational license fee on behalf of an employee or potential employee. A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article may seek reimbursement of the application fee or annual license fee from an employee who is issued an occupational license.

(c) A license issued under this chapter is valid for one (1) year after the date of issuance.

(d) Unless an occupational license is suspended, expires, or is revoked, the occupational license may be renewed annually upon:

(1) the payment of an annual license fee by the permit holder that is issued a license under this article or the holder of a supplier's license under this article on behalf of the licensee in an amount established by the commission; and

(2) a determination by the commission that the licensee is in compliance with this article.

(e) The commission may investigate the holder of an occupational license at any time the commission determines it is necessary to ensure that the licensee is in compliance with this article.

(f) A permit holder that is an applicant for a license under this article or that is issued a license under this article or a holder of a supplier's license under this article:

(1) shall pay the cost of an investigation or reinvestigation of a holder of an occupational license who is employed by the permit holder or holder of a supplier's license; and

(2) may seek reimbursement of the cost of an investigation or reinvestigation from an employee who holds an occupational license.

Sec. 3. Except as provided by section 11 of this chapter, the commission may not issue an occupational license to an individual unless the individual:

(1) is at least eighteen (18) years of age;

(2) has not been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States;

(3) has demonstrated a level of skill or knowledge that the commission determines is necessary to operate gambling games at racetracks; and

(4) has met standards adopted by the commission for the holding of an occupational license.

Sec. 4. The commission shall adopt rules under IC 4-22-2 providing the following:

(1) That an individual applying for an occupational license to manage gambling games at racetracks under this article is subject to background inquiries and requirements similar to those required for an applicant for a license under IC 4-33-6.

(2) That each individual applying for an occupational license may manage gambling games for only one (1) licensee.

Sec. 5. (a) An application for an occupational license must:

(1) be made on forms prescribed by the commission; and

(2) contain all information required by the commission.

(b) An applicant for an occupational license must provide the following information in the application:

(1) If the applicant has held other licenses relating to gambling.

(2) If the applicant has been licensed in any other state under any other name. The applicant must provide under this subdivision the name under which the applicant was licensed in the other state.

(3) The applicant's age.

(4) If a permit or license issued to the applicant in another state has been suspended, restricted, or revoked. The applicant must describe the date and length of a suspension, restriction, or revocation described in this subdivision.

Sec. 6. An applicant for an occupational license must submit with the application two (2) sets of the applicant's fingerprints. The applicant must submit the fingerprints on forms provided by the commission. The commission shall charge each applicant a fee set by the state police department to defray the costs associated with the search and classification of the applicant's fingerprints.

Sec. 7. The commission may refuse to issue an occupational license to an individual who:

(1) is unqualified to perform the duties required of the applicant;

(2) does not disclose or states falsely any information required by the application;

(3) has been found guilty of a violation of this article;

(4) has had a gambling related license or an application for a gambling related license suspended, restricted, revoked, or denied for just cause in another state; or

(5) for just cause is considered by the commission to be unfit to hold an occupational license.

Sec. 8. The commission may suspend, revoke, or restrict an occupational licensee for the following reasons:

(1) A violation of this article.

(2) A cause that if known to the commission would have disqualified the applicant from receiving the occupational license.

(3) A default in the payment of an obligation or a debt due to the state.

1 (4) Any other just cause.

2 **Sec. 9. (a)** This article does not prohibit a permit holder that is
3 issued a license from entering into an agreement with a school
4 approved by the commission for the training of an occupational
5 licensee.

6 **(b)** Training offered by a school described in subsection (a) must
7 be:

8 (1) in accordance with a written agreement between the
9 licensee and the school; and

10 (2) approved by the commission.

11 **Sec. 10.** Training provided for occupational licensees may be
12 conducted:

13 (1) at a racetrack; or

14 (2) at a school with which a licensed owner or an operating
15 agent has entered into an agreement under section 9 of this
16 chapter.

17 **Sec. 11. (a)** An individual who is disqualified under section 3(2)
18 of this chapter due to a conviction for a felony may apply to the
19 commission for a waiver of the requirements of section 3(2) of this
20 chapter.

21 **(b)** The commission may waive the requirements of section 3(2)
22 of this chapter with respect to an individual applying for an
23 occupational license if:

24 (1) the individual qualifies for a waiver under subsection (e)
25 or (f); and

26 (2) the commission determines that the individual has
27 demonstrated by clear and convincing evidence the
28 individual's rehabilitation.

29 **(c)** In determining whether the individual applying for the
30 occupational license has demonstrated rehabilitation under
31 subsection (b), the commission shall consider the following factors:

32 (1) The nature and duties of the position applied for by the
33 individual.

34 (2) The nature and seriousness of the offense or conduct.

35 (3) The circumstances under which the offense or conduct
36 occurred.

37 (4) The date of the offense or conduct.

38 (5) The age of the individual when the offense or conduct was
39 committed.

40 (6) Whether the offense or conduct was an isolated or a
41 repeated incident.

42 (7) A social condition that may have contributed to the offense
43 or conduct.

44 (8) Evidence of rehabilitation, including good conduct in
45 prison or in the community, counseling or psychiatric
46 treatment received, acquisition of additional academic or
47 vocational education, successful participation in a
48 correctional work release program, or the recommendation

of a person who has or has had the individual under the person's supervision.

(9) The complete criminal record of the individual.

(10) The prospective employer's written statement that:

(A) the employer has been advised of all of the facts and circumstances of the individual's criminal record; and

(B) after having considered the facts and circumstances, the prospective employer will hire the individual if the commission grants a waiver of the requirements of section 3(2) of this chapter.

(d) The commission may not waive the requirements of section 3(2) of this chapter for an individual who has been convicted of committing any of the following:

(1) A felony in violation of federal law (as classified in 18 U.S.C. 3559).

(2) A felony of fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(3) A felony of conspiracy to commit a felony described in subdivision (1), (2), or (4) under the laws of Indiana or any other jurisdiction.

(4) A felony of gambling under IC 35-45-5 or IC 35-45-6 or a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a crime described in IC 35-45-5 or IC 35-45-6.

(e) The commission may waive the requirements of section 3(2) of this chapter for an individual if:

(1) the individual has been convicted of committing:

(A) a felony described in IC 35-42 against another human being or a felony described in IC 35-48-4;

(B) a felony under Indiana law that results in bodily injury, serious bodily injury, or death to another human being; or

(C) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in clause (A) or (B); and

(2) ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later, for the conviction described in subdivision (1).

(f) The commission may waive the requirements of section 3(2) of this chapter for an individual if:

(1) the individual has been convicted in Indiana or any other jurisdiction of committing a felony not described in subsection (d) or (e); and

(2) five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later, for the conviction described in subdivision

(1).

(g) To enable a prospective employer to determine, for purposes of subsection (c)(10), whether the prospective employer has been advised of all of the facts and circumstances of the individual's criminal record, the commission shall notify the prospective employer of all information that the commission:

(1) has obtained concerning the individual; and

(2) is authorized to release under IC 5-14.

(h) The commission shall deny the individual's request to waive the requirements of section 3(2) of this chapter if the individual fails to disclose to both the commission and the prospective employer all information relevant to this section."

Page 37, line 24, after "11." insert "(a)".

Page 37, between lines 26 and 27, begin a new paragraph and insert:

"(b) A slot machine authorized under this article may serve only one (1) person at a particular time."

Page 37, line 29, delete "beginning after June 30, 2009,".

Page 37, line 30, after "to" insert **"the gaming integrity fund,"**.

Page 37, line 31, after "purses" insert **", and to horsemen's associations"**.

Page 37, line 33, after "The" insert **"Indiana horse racing"**.

Page 37, line 35, after "purpose of the" insert **"Indiana horse racing"**.

Page 37, line 36, after "A" insert **"licensee shall pay the first two hundred fifty thousand dollars (\$250,000) distributed under this section in a state fiscal year to the commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the commission, a"**.

Page 37, line 37, after "the" insert **"remaining"**.

Page 37, line 37, after "purses" insert **"and to horsemen's associations"**.

Page 38, line 11, after "association." insert **"Expenditures under this subsection are subject to the regulatory requirements of subsection (f)."**

Page 38, after line 42, begin a new line blocked left and insert:

"Expenditures under this subsection are subject to the regulatory requirements of subsection (f)."

Page 39, delete lines 9 through 12, begin a new paragraph and insert:

"(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning

1 the review and oversight of money distributed under this section
 2 and shall adopt rules concerning the enforcement of this section.
 3 The following apply to a horsemen's association receiving a
 4 distribution of money under this section:

5 (1) The horsemen's association must annually file a report
 6 with the Indiana horse racing commission concerning the use
 7 of the money by the horsemen's association. The report must
 8 include information as required by the commission.

9 (2) The horsemen's association must register with the Indiana
 10 horse racing commission.

11 (3) The members of the horsemen's association must be
 12 licensed by the Indiana horse racing commission."

13 Page 39, between lines 28 and 29, begin a new paragraph and insert:

14 "Sec. 13. (a) The definitions in IC 3-5-2 apply to this section to
 15 the extent they do not conflict with the definitions in this article.

16 (b) As used in this section, "candidate" refers to any of the
 17 following:

18 (1) A candidate for a state office.

19 (2) A candidate for a legislative office.

20 (3) A candidate for a local office.

21 (c) As used in this section, "committee" refers to any of the
 22 following:

23 (1) A candidate's committee.

24 (2) A regular party committee.

25 (3) A committee organized by a legislative caucus of the house
 26 of the general assembly.

27 (4) A committee organized by a legislative caucus of the senate
 28 of the general assembly.

29 (d) Money distributed under section 12 of this chapter may not
 30 be used for any of the following purposes:

31 (1) To make a contribution to a candidate or a committee.

32 (2) For lobbying (as defined in IC 2-7-1-9)."

33 Page 39, line 29, delete "Sec. 13." and insert "Sec. 14."

34 Page 40, delete lines 23 through 42, begin a new paragraph and
 35 insert:

36 "Sec. 3. Before the fifteenth day of each month, the treasurer of
 37 state shall distribute the tax revenue deposited in the state
 38 racetrack gaming fund in the preceding month to the state general
 39 fund."

40 Page 41, delete lines 1 through 9.

41 Page 42, line 15, delete "five hundred thousand dollars (\$500,000)"
 42 and insert "two hundred fifty thousand dollars (\$250,000)".

43 Page 42, line 21, after "chapter" delete "." and insert "and money
 44 distributed to the fund under IC 4-35-7-12."

45 Page 42, between lines 39 and 40, begin a new paragraph and insert:

46 "Chapter 8.8. Problem Gambling Fees

47 Sec. 1. As used in this chapter, "division" refers to the division

1 of mental health and addiction.

2 **Sec. 2. A licensee that offers slot machine wagering at**
3 **racetracks under this article shall annually pay to the division a**
4 **problem gambling fee equal to five hundred thousand dollars**
5 **(\$500,000) for each racetrack at which the licensee offers slot**
6 **machine wagering.**

7 **Sec. 3. The division may use problem gambling fees paid to the**
8 **division under this chapter only for the prevention and treatment**
9 **of compulsive gambling that is related to slot machine wagering**
10 **and other gambling allowed under IC 4-33.**

11 **Sec. 4. The problem gambling fees used by the division under**
12 **this chapter for the prevention and treatment of compulsive**
13 **gambling are in addition to any admissions tax revenue allocated**
14 **by the division under IC 4-33-12-6 for the prevention and**
15 **treatment of compulsive gambling."**

16 Page 47, line 25, delete "as nearly as possible".

17 Re-number all SECTIONS consecutively.

(Reference is to EHB 1835 as printed March 22, 2007.)

Senator JACKMAN